S.B. Civil Writ Petition No.3444/06
Municipal Board, Nawalgarh Vs. Kailash & Anr.

Date of Order : 09/05/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. K.N. Gupta, for petitioner
Mr. N.K. Bhatt, for respondent-workman

Instant petition has been filed against the impugned award passed by the Labour Court No.2, Jaipur dt.5th October, 2004.

The respondent-workman herein was working as Safai Karamchari [Sweeper]. Undisputedly, he worked for more than 14 months on daily wages basis and his services were dispensed with by the petitioner vide order dt.27th May, 1997 which was questioned by making application before the conciliation officer and finally dispute was referred by the appropriate government before the Labour Court for adjudication.

After taking into consideration the material, the learned Labour Court recorded a finding that respondent-workman had worked for more than 240 days and the petitioner has failed to comply with the provisions of Section 25-F of Industrial Disputes Act, 1947 and accordingly, directed the petitioner to reinstate the workman with continuity of service without any back wages. Hence, this petition.

Counsel for petitioner does not dispute so far as working of the respondent-workman for more than 240 days is concerned, but submits that his services were dispensed with in 1997 and 9 years have rolled by and even if, petitioner has failed to comply with the provisions of Section 25-F of Act, 1947 in lieu of reinstatement he may be awarded some reasonable compensation with regard to service which he has rendered in the Municipality and in support of his contention, counsel has placed reliance on the judgment of this court in **Dal Chand & 5 Ors. Vs. Judge, Labour Court & Ors. [2004 (2) WLC-514**.

Counsel for respondent-workman supports the finding recorded by the Labour Court and submits that once the finding of fact has not been disputed with regard to his working for more than 240 days and of non-compliance of statutory requirement u/s. 25-F of the Act, reinstatement is a normal rule and no exceptional feature has been pointed out by the petitioner which may call for interference in awarding compensation in lieu of reinstatement.

I have considered the submission of the counsel for parties and perused the material on record.

This fact is not disputed that respondent-workman had worked for more than 240 days. This is also settled principles of law that reinstatement is a normal rule and if the workman is to be awarded compensation in lieu thereof, there must be exceptional reasons/features which have to be placed before the Tribunal/Labour Court for consideration accepting exception to the normal rule laid down with regard to non-compliance of Section 25-F of the Act.

The Division Bench in **Dal Chand & 5 Ors. Vs. Judge, Labour Court & Ors. [supra]** in Para 17 laid down some principles and considerations for granting compensation in lieu of reinstatement, none of the exceptions referred to by the Division Bench in Para 17 have been placed before the Labour Court for consideration, as such the judgment [supra] is of no assistance to the counsel for petitioner.

Consequently, I find no force in the writ petition, the same stands dismissed.

[Ajay Rastogi],J.

FRB